

Application of 2013 Act 178

Counting Write-in Votes at the Partisan Primary

Background

2013 Act 178 revised how write-in votes are counted. Votes for *registered* write-in candidates must *always* be counted, but votes for unregistered write-in candidates are only counted in certain situations. The basic provisions of the Act are:

- ❖ If one or more candidates are listed on the ballot for an office:
 - Count only votes for registered write-in candidates.

- ❖ If one or more candidates are listed on the ballot for an office, but one or more are deceased:
 - Count all write-in votes.

- ❖ If no candidates are listed on the ballot for an office:
 - Count all write-in votes.

Application of Act 178 to the Partisan Primary

The partisan primary is actually five elections in one. Each party is a separate election and a separate ballot. With this in mind, the following chart applies the provisions of Act 178 to the partisan primary:

If one or more candidates are listed on the ballot for an office in a given party:	Count only votes for registered write-in candidates. <i>Votes for un-registered write-in candidates are disregarded.</i>
If one or more candidates are listed on the ballot for an office in a given party, but one or more candidates are deceased:	Count all write-in votes.
If no candidates are listed on the ballot for an office in a given party:	Count all write-in votes.

Writing in Ballot Candidates under Another Party

Few voters thoroughly understand how a partisan primary is conducted and many may attempt to vote in more than one party. Selection of a party preference will protect voters from losing all of their votes. Voters who do not select a party preference and crossover vote, are at the mercy of their own actions. Voters that *do* understand that they may only vote in one party may try their best to get around that.

Wis. Stat. §7.50(2)(g) provides: “In partisan primaries, if an elector writes in the name of an individual on a (*party*) ballot other than the one in which that individual’s name is shown as a candidate, the write-in vote may not be counted.” Below are examples of the treatment of names of party candidates written in on the same party’s ballot or on another party’s ballot.

Voter HAS NOT selected a party preference	
The voter casts votes on one political party’s ballot, then writes in on that same party ballot the name of a person whose name appears on another party’s ballot:	<i>The voter has marked only one party ballot, so this is not considered a crossover. The write-in vote is not counted but the remaining votes are counted.</i>
The voter casts votes on one political party’s ballot, and votes for or writes in the name of a person on another party’s ballot:	<i>The voter has marked two party ballots which makes it a crossover vote. The entire ballot is not counted.</i>

Voter HAS selected a party preference,	
The voter casts votes in the party selected, and votes for or writes in on that same party ballot the name of a person who appears as a ballot candidate in a different party:	<i>The voter has marked only the preferred ballot, but wrote in a name from another ballot. The write-in vote is not counted but the remaining votes are counted.</i>
The voter casts votes in the party selected, and votes for or writes in the name of a person on another party's ballot:	<i>The voter has marked two party ballots but choosing a party preference has saved the votes in preferred party. Votes are counted for the candidates in the party selected. The vote in the other party is not counted.</i>

Writing in a Known Independent Candidate

Independent candidates who qualified for the ballot do not appear on the partisan primary ballot but will appear on the November ballot. If an independent candidate is written in on the partisan primary ballot, election inspectors treat the write-in the same way they would treat any other nonregistered write-in candidate:

- ❖ **If there are one or more ballot candidates** for the office in the party in which the independent candidate is written, the write in vote is not counted unless a ballot candidate is deceased.
- ❖ **If there are no ballot candidates** for the office in the party in which the independent candidate is written, the write in vote is counted.